

DEFICIENCY PROGRESS REPORT – UPDATE 1

April 4, 2008

CUPA: AMADOR COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

Evaluation Date: November 28 and 29, 2007

Evaluator(s): Jennifer Lorenzo, Cal/EPA
Frederick Thomas, DTSC
Jeffrey Tkach, OES
Terry Snyder, SWRCB

Status: Deficiencies 2, 4, 8, 9, 10, 11, and 12 remain outstanding.

Next Progress Report (2nd Update) Due: June 2, 2008

1. **Deficiency:** The CUPA does not have Administrative Enforcement Order (AEO) form incorporated into their Inspection and Enforcement (I&E) Program Plan. This deficiency was identified during the CUPA's last evaluation in 2005.

Preliminary Corrective Action: This deficiency is withdrawn. No further corrective action is required. An AEO form is not required to be incorporated into a CUPA's I&E Program Plan. Additionally, a draft revision of the CUPA's Hazardous Materials Ordinance and Inspection and Enforcement Program Plan, containing the AEO policy and procedure, were submitted to the Amador County Board of Supervisors for approval in September 2007. In January 2008, the CUPA will conduct workshops to educate the public about the revised Hazardous Materials Ordinance and I&E Program Plan.

CUPA Corrective Action: No further update is required.

2. **Deficiency:** The CUPA is not implementing and enforcing the requirements of the business plan program for all handlers subject to the program. Specifically, the CUPA is neither regulating nor properly exempting agricultural handlers subject to the business plan program.

Preliminary Corrective Action by May 28, 2008: The CUPA must submit an action plan, with projected timeline, to either regulate all farms subject to the business plan program or to properly exempt these businesses under HSC, Chapter 6.95, Section 25503.5(c)(2), (3), (4) or (5).

CUPA Corrective Action (March 3, 2008): The Amador County Board of Supervisors applied for and was certified as a unified agency in 1997 under SB1082. The Administrative Enforcement Order procedure (HS&C section 25404.1.1) was incorporated into the Unified Program through to the enactment of AB2481 in 2002,

after the application and certification of the Environmental Health Department. The Board of Supervisors held public hearing on an updated Hazardous Materials Ordinance and Inspection and Enforcement Plan, which contains the Administrative Enforcement Order policy on December 18, 2007. As a result of comments received at the public hearing, two public workshops were conducted on January 29, 2008 to inform the regulated public about the Unified Program and the Inspection and Enforcement Plan including the Administrative Enforcement Order procedure.

Due to large amounts of public interest, the Board of Supervisor directed that additional informational meetings be provided to the regulated community, including the agricultural or to continuing the public hearing on the updated Hazardous Materials Ordinance and Inspection and Enforcement Plan. Considerable interest was shown by the agricultural community at the workshops, which resulted in the Agricultural Commissioner agreeing to development and administer the hazardous materials business plan portion of the unified program under HS&C 25503.5.(c)(5). An informational meeting, hosted by the Agricultural Commissioner, is scheduled for March 15, 2008. A public hearing on the Hazardous Materials Ordinance and Inspection and Enforcement Plan is scheduled for April 8, 2008.

Cal/EPA & OES Comments to March 3, 2008, Corrective Action: *This deficiency remains in the process of being corrected. On the next update, due on June 2, 2008, please report the CUPA's progress on implementing the farm exemption, utilizing the services of the Agricultural Commissioner's office.*

3. **Deficiency:** The CUPA's Area Plan does not have all the required elements. This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.

Preliminary Corrective Action by November 29, 2008: The CUPA has applied for and received a Hazardous Materials Emergency Planning (HMEP) grant to prepare an Area Plan. By November 29, 2008, the CUPA shall have an approved Area Plan implemented.

CUPA Corrective Action (March 3, 2008): A notice of intent to apply for a 2007/2008 Hazardous Material Emergency Preparedness grant (Grant) was submitted to Region IV LEPC on June 18, 2007. The Board of Supervisors approved the submission of the Grant application on the July 10, 2007 consent calendar. A completed Grant application was hand delivered to the OES Region IV LEPC staff at the Region IV LEPC meeting on July 17, 2007. The grant application proposes to hire an experienced consultant to prepare the area plan in coordination with Environmental Health.

Notification was received from the Governor's Office of Emergency Services on October 3, 2007 that the project and grant had been approved. Signed acceptance forms for Grant No. HEMCA 7033150 were returned to Emergency Service on October 12, 2007.

The signing of a contract with Boykin Consulting Services was approved on the Amador county Board of Supervisors Consent Agenda on February 26, 2008.

Cal/EPA & OES Comments to March 3, 2008, Corrective Action: *This deficiency has been corrected and no further update is required. Once the plan has been received from the contractor and accepted, please send a copy to OES for review.*

4. **Deficiency:** The CUPA is not inspecting all businesses subject to the business plan for compliance every three years. This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.

Preliminary Corrective Action by March 3, 2008: By March 3, 2008, the CUPA must submit an action plan outlining how the CUPA will maintain their inspection frequency. By December 1, 2008, the CUPA will have at least a third of their business plan facilities inspected.

CUPA Corrective Action (March 3, 2008): 3 hazardous materials business plan inspections and 4 UST/hazardous materials business plan inspections were conducted in this reporting period. A drop in the demand for onsite sewage disposal permitting is allowing redirection of Environmental Staff to the CUPA program to insure that one third of non UST HMBP (~57 yr) are inspected annually. Additional funding which will become available with the enactment of A.B. No. 1257 (Caballero) will ensure an adequate staffing level for the CUPA programs.

Cal/EPA & OES Comments to March 3, 2008, Corrective Action: *This deficiency remains outstanding. On the next update, due on June 2, 2008, please submit a plan on how the CUPA will maintain a triennial inspection frequency of its business plan facilities. In addition, submit a progress of the CUPA's implementation of the plan, including the number of regulated businesses and the number of businesses inspected for compliance from July 1, 2007, to April 31, 2008.*

5. **Deficiency:** The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements to annually submit their hazardous materials inventory or certification statement. This deficiency was identified during the CUPA's last evaluation in 2005.

Preliminary Corrective Action: This deficiency has been corrected. Out of the nine files reviewed, eight files contained current annual inventories with either certifications or updated inventory sheets.

CUPA Corrective Action: No further update is required.

6. **Deficiency:** The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to certify and review the update of the entire business plan

every three years. This deficiency was identified during the CUPA's last evaluation in 2005.

Preliminary Corrective Action: This deficiency has been corrected. Out of the nine files reviewed, eight files had their Business Plan reviewed and updated within the last three years.

CUPA Corrective Action: No further update is required.

7. **Deficiency:** The CUPA does not have a California Accidental Release Prevention (CalARP) dispute resolution procedure. A draft resolution procedure was presented at the time of the evaluation. This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.

Preliminary Corrective Action by March 3, 2008: The CUPA must have their CalARP dispute resolution procedure finalized and implemented.

CUPA Corrective Action (March 3, 2008): A California Accidental Release Prevention (CalARP) dispute resolution procedure (attached) has been established which utilizes the Administrative Enforcement Order (AEO) procedure established in the CUPA Inspection and Enforcement Plan.

Cal/EPA & OES Comments to March 3, 2008, Corrective Action: *The supplied procedure satisfies all the elements of California Code of Regulations title 19, section 2780.1. The deficiency has been corrected and no further update is required.*

8. **Deficiency:** The UST plot plans did not contain all the required elements. The plot plans were missing the location(s) of where the monitoring will be performed. Examples of missing locations include the sensors for tanks, sumps, under-dispenser containments, line leak detectors, and monitoring panels for automatic tank gauge and alarms.

Preliminary Corrective Action: Beginning November 29, 2007, UST plot plan requirements will be modified to include location of all leak detection monitoring equipment. The CUPA will request for updated plot plans to be submitted by the facility's annual inspection date. In addition, the CUPA will ensure that new permit application materials contain completed plot plans. By December 1, 2008, the CUPA will ensure that all UST plot plans contain all the required elements.

CUPA Corrective Action (March 3, 2008): The updated SWRCB UST Monitoring Site Plan requiring the location of all leak detection monitoring equipment has been included in the new UST Permit application package.

Cal/EPA & SWRCB Comments to March 3, 2008, Corrective Action: *This deficiency is considered a correction in progress. On the next update, due on June 2, 2008,*

please submit a copy of the CUPA's new UST Permit application package showing that the UST monitoring site plan requires the location of all leak detection monitoring equipment.

- 9. Deficiency:** The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with their I&E Program Plan, which is triennial.

Preliminary Corrective Action by December 31, 2007: The CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement as noted on their I&E Program Plan.

Beginning March 3, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.

CUPA Corrective Action (March 3, 2008): 3 CESQG inspections were conducted as part of the hazardous materials business plan inspections in this reporting period. The revised I&E program is under review by the Board of Supervisors and scheduled for a public hearing on April 8, 2008.

Cal/EPA & DTSC Comments to March 3, 2008, Corrective Action: *This deficiency remains outstanding as an implementation plan to ensure a triennial inspection frequency occurs has not been identified. On the next update, due on June 2, 2008, please submit information on the implementation plan, including the number of hazardous waste generator facilities and the number of generators inspected for compliance from July 1, 2007, to April 31, 2008.*

- 10. Deficiency:** The CUPA did not conduct a complete [hazardous waste generator] inspection on November 27, 2007.

Preliminary Corrective Action by November 29, 2008: The CUPA shall have moved from outreach to full health and safety compliance inspections.

CUPA Corrective Action (March 3, 2008): The Amador County Board of Supervisors applied for and was certified as a unified agency in 1997 under SB 1082. The Administrative Enforcement Order procedure (HS&C section 25404.1.1) was incorporated into the Unified Program through the enactment of AB 2481 in 2002, after the application and certification of the Environmental Health Department. The Board of Supervisors held a public hearing on an updated Hazardous Materials Ordinance and Inspection and Enforcement Plan, which contains the Administrative Enforcement Order policy on December 18, 2007. As a result of comments received at the public hearing, two public workshops were conducted on January 29, 2008 to inform the regulated public about the Unified Program and the Inspection and Enforcement Plan including the Administrative Enforcement Order procedure.

Due to large amounts of public interest, the Board of Supervisor directed that additional informational meetings be provided to the regulated community prior to continuing the public hearing on the updated Hazardous Materials Ordinance and Inspection and Enforcement Plan. An informational meeting for regulated community is tentatively scheduled for March 21, 2008. A public hearing on the Hazardous Materials Ordinance and Inspection and Enforcement Plan is scheduled for April 8, 2008.

Cal/EPA & DTSC Comments to March 3, 2008, Corrective Action: *This deficiency remains outstanding. The CUPA certification process required that an Inspection and Enforcement Program Plan be developed and in effect no later than one year after certification. As such, DTSC expects the CUPA to follow this I&E Program Plan for conducting inspections of hazardous waste generators and not just for doing outreach. It is not clear to DTSC what the above mentioned public hearing has to do with conducting generator inspections and with correcting this deficiency. On the next update, due on June 2, 2008, please provide information on the corrective action requested.*

- 11. Deficiency:** The CUPA is not documenting violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation.

Preliminary Corrective Action by November 29, 2007: Beginning November 29, 2007, the CUPA will document all violations on their inspection reports even if the violations are corrected on site.

CUPA Corrective Action (March 3, 2008): All violations, even if the violations are corrected on site, are being documented on inspection reports.

Cal/EPA & DTSC Comments to March 3, 2008, Corrective Action: *DTSC appreciates the CUPA's efforts to document violations. On the next update, due on June 2, 2008, please submit an inspection report or summary of violations that demonstrates violations corrected on site have been documented.*

- 12. Deficiency:** The CUPA is unable to document that all facilities that have received a notice to comply, citing minor violations, have returned to compliance within 30 days of notification. During the file review, it was observed that minor violations did not have a record of return to compliance. The business shall either submit a Return to Compliance Certification in order to document its compliance or, in the absence of certification, the CUPA shall follow up with the business to confirm that compliance has been achieved.

Preliminary Corrective Action by December 31, 2007: The CUPA shall ensure that facilities, who are cited for minor violations during hazardous waste inspections, have either submitted a Return to Compliance letter or the CUPA will follow up within an appropriate time frame.

CUPA Corrective Action (March 3, 2008): CESQG inspections, conducted as part of the HMBP inspections, observed minor violations which corrected a[t] the time of inspection and noted on the inspection report.

Cal/EPA & DTSC Comments to March 3, 2008, Corrective Action: *This deficiency remains outstanding. DTSC appreciates the CUPA's effort at documenting return to compliance for minor violations cited during hazardous waste inspections. As noted in the preliminary corrective action, the CUPA was asked to ensure submittals of Return to Compliance letters or to follow up with the business to ensure compliance. On the next update, due on June 2, 2008, please explain how the CUPA has accomplished this corrective action.*